

**§ 1436.16 Foreclosure, liquidation, assumptions, sales or conveyance, or bankruptcy.**

(a) The collateral or land securing a loan may be sold by CCC whenever CCC has declared the entire indebtedness immediately due and payable under this part as follows:

(1) If a demand for payment is not received by the due date acceptable to CCC, CCC may call the loan and initiate foreclosure proceedings by issuing a liquidation letter to the borrower.

(2) The debtor may voluntarily agree to allow removal of the collateral to facilitate sale by signing an agreement for sale. If the debtor objects to removal of collateral, the law of the State where the collateral exists will be used to foreclose on the property.

(3) For loans with movable collateral and no real estate lien, CCC may sell the collateral for the best price obtainable. Sales proceeds will be distributed in the following order:

(i) To CCC to satisfy the debtor's indebtedness including all costs associated with selling the collateral.

(ii) Payment to junior lien holders if approved by USDA's Office of the General Counsel and then to the borrower or other persons as determined appropriate by that office.

(4) For loans with non-movable or non-salable collateral, as determined by CCC, and no real estate lien, CCC may establish a claim according to 7 CFR part 1403.

(5) For loans secured with a real estate lien, CCC may obtain an appraisal of the property. Sales proceeds will be distributed in the following order:

(i) To CCC to satisfy the debtor's indebtedness including all costs associated with selling the collateral and the appraisal.

(ii) To junior lien holders if approved by USDA's Office of the General Counsel; or

(iii) To the borrower or other persons as determined appropriate by that office.

(b) Assumption by another borrower of a farm storage facility loan is permitted subject to county committee approval and the subsequent borrower's ability to show a satisfactory credit history. An assumption of the loan may be approved when the collateral is

sold by CCC to an otherwise eligible borrower, the current borrower will convey the collateral or property securing the loan to another eligible borrower, or the borrower is dead, incompetent, or missing and an eligible borrower wants to assume the loan.

(1) Requests for approval of assumptions must be made to the county committee by the borrower, the borrower's successors, or representatives of the borrower. If approval is granted, the borrower's successors or representatives must execute a new farm storage facility note and security agreement for the balance of the term of the loan.

(2) The principal amount of the loan will include the unpaid amount of the loan, interest computed to the date of assumption, all past due installments, and any other charges that may be required.

(c) The borrower may voluntarily convey the collateral to CCC before repaying the loan. Before a borrower sells or conveys the facilities or other property securing a loan without repaying the loan in full, the borrower must obtain approval for the sale or conveyance from the FSA county committee with the understanding that sale proceeds must be paid to satisfy the borrower's indebtedness to CCC.

(d) If any significant changes are made to the legal or operating status of the farming operation with an outstanding Farm Storage Facility Loan, the borrower must do one of the following:

(1) Find an eligible borrower or entity to assume the loan as specified in paragraph (b) of this section,

(2) Repay the loan, or

(3) Undergo new financial analysis, as approved and determined by CCC, to ensure CCC's interests are protected and that the current borrower is in a position to continue making the scheduled loan payments.

(e) Remedies provided for in this section will, unless CCC determines otherwise, be subject to the administrative appeals provided for elsewhere in this part, including those that are found at § 1436.13.

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